

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Stéphanie Angot, et al.

Application No.: 10/537,550

Confirmation No.: 4525

Filed: June 3, 2005

Art Unit: N/A

For: POLYAMINO ACIDS FUNCTIONALIZED BY
AT LEAST ONE (OLIGO)AMINO ACID
GROUP AND THERAPEUTIC USES

Examiner: Not Yet Assigned

PETITION UNDER 37 C.F.R. § 1.47

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants respectfully petition, pursuant to 37 C.F.R. § 1.47, to accept the present application as being filed on behalf of the non-signing inventor.

OATH OR DECLARATION BY ALL AVAILABLE INVENTORS

Applicants submit herewith a copy of the December 2, 2005 Notification of Missing Requirements along with a declaration executed by all available inventors who were willing to sign.

IDENTIFICATION OF NON-SIGNING INVENTORS & LAST KNOWN ADDRESSES

Gérard Soula is a named inventor on the above captioned application. Mr. Soula has refused to join the present application by signing of the declaration. It is our present understanding that Mr. Soula disputes the ownership of the application. His last known address information is as follows:

06/14/2006 ATRAN1 00000126 10537550

01 FC:1463

200.00 0P

Gérard Soula
33 rue Nungesser,
69330 Meyzieu,
France

PROOF OF UNAVAILABILITY OR REFUSAL

Applicants submit herewith the Declaration of Charles Marlio, in support of this petition. Applicants further submit the following documents showing that Mr. Soula was presented with the declaration and assignment:

August 30, 2005 and September 8, 2005 letters whereby Ms. Laribi of Flamel Technologies forwarded a copy of the declarations and assignments to Mr. Soula with a request for his signature.

A copy of the return postcards addressed and received by Mr. Soula forwarding a copy of the declarations and assignments to Mr. Soula.

A copy of the combined declaration and power of attorney and assignment forwarded to Mr. Soula.

It is respectfully submitted that the aforementioned documents along with the Declaration and Exhibits attached thereto establish: (i) Gérard Soula was presented with the application and declaration; (ii) was requested to join in the application by executing the declaration; and (iii) the conduct of Gérard Soula constitutes a refusal to join in the application.

RELIEF REQUESTED & CONCLUSION

In light of the above, Applicants request that the present application be accepted as complete. To the extent that it is determined that relief is inappropriate pursuant to 37 C.F.R. § 1.47(a), Applicants hereby request that this petition be considered under 37 C.F.R.

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

POLYAMINO ACIDS FUNCTIONALIZED BY AT LEAST ONE (OLIGO)AMINO ACID GROUP AND THERAPEUTIC USES

the specification of which

☐ is attached and/or

☒ was filed on **June 3, 2005** as United States Application Serial No. **10/537,550** and/or

☒ was filed on **November 24, 2003** as PCT International Application No. **PCT/FR2003/003458** and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate or § 365(a) of any PCT international application(s) designating at least one country other than the United States, listed below and have also identified below, any foreign application(s) for patent or inventor's certificate, or any PCT International application(s) having a filing date before that of the application(s) of which priority is claimed:

Country	Application Number	Date of Filing	Priority Claimed Under 35 U.S.C. 119
FRANCE	02/15269	December 4, 2002	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) or § 365(c) of any PCT International application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application(s) and the national or PCT International filing date of this application:

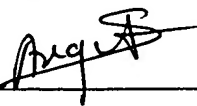
Application Number	Date of Filing	Status (Patented, Pending, Abandoned)

I hereby appoint the following attorney and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., CUSTOMER NUMBER 22,852.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Full Name of First Inventor Stéphanie ANGOT	Inventor's Signature 	Date 2 September 2005
Residence Lyon, France	Citizenship France	
Post Office Address 123 bis cours Albert Thomas 69003 Lyon, France		

Full Name of Second Inventor You-Ping CHAN	Inventor's Signature	Date
Residence Lyon, France	Citizenship France	
Post Office Address 14 boulevard Jean XXIII 69008 Lyon, France		

Full Name of Third Inventor Gérard SOULA	Inventor's Signature	Date
Residence Meyzieu, France	Citizenship France	
Post Office Address 33 rue Nungesser 69330 Meyzieu, France		

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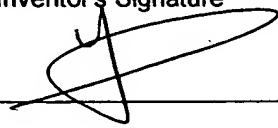
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Full Name of First Inventor Stéphanie ANGOT	Inventor's Signature	Date
Residence Lyon, France		Citizenship France
Post Office Address 123 bis cours Albert Thomas 69003 Lyon, France		

Full Name of Second Inventor You-Ping CHAN	Inventor's Signature 	Date 29 August, 2005
Residence Lyon, France		Citizenship France MAURITIUS
Post Office Address 14 boulevard Jean XXIII 69008 Lyon, France		

Full Name of Third Inventor Gérard SOULA	Inventor's Signature	Date
Residence Meyzieu, France		Citizenship France
Post Office Address 33 rue Nungesser 69330 Meyzieu, France		


§ 1.181 and/or § 1.183. The petition fee pursuant to 37 C.F.R. § 1.17(h) is submitted herewith.

Should this petition be considered insufficient, or the relief requested not be granted for any reason, Applicants respectfully request that this be considered a *bona fide* attempt to respond to the Notification of Missing Requirements of December 2, 2005, and that Applicants be permitted an opportunity to supplement this response.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2228. Should no proper payment be enclosed herewith, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2228. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2228.

Respectfully submitted,

Date June 9, 2006
PATTON BOGGS LLP
Customer Number: 32042
Telephone: (703) 744-8085
Facsimile: (703) 744-8001

By 
Lacy L. Kolo
Attorney for Applicant
Registration No. 55,340

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Stéphanie Angot et al.

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GROUP AND THERAPEUTIC USES

Examiner: Not Yet Assigned

DECLARATION OF FACTS UNDER 37 CFR 1.47

1. My name is Charles Marlio.
2. I have been with Flamel Technologies since February 2004.
3. I served as the Associate General Counsel at Flamel Technologies from February 2004 to July 2006. I currently serve as Director of Strategic Planning.
4. My position requires that I work closely with the Flamel Chief Executive Officer and the Intellectual Property Attorneys.
5. When Gérard Soula was Chief Executive Officer of Flamel Technologies, he did not permit patent applications to be filed in the U.S. Patent and Trademark Office unless he personally reviewed the application and gave express permission.
6. Dr. Soula would provide the final review of the application to ensure that the application fully disclosed the inventive material.
7. Dr. Soula had full authority to amend the application or to prevent the application from being filed and his final approval was required for any changes prior to filing.

8. When U.S. Application No. 10/537550 was filed, Dr. Soula was the Chief Executive Officer.
9. As was the customary practice at Flamel Technologies when Dr. Soula was Chief Executive Officer, U.S. Application No. 10/537550 would not have been filed unless Dr. Soula reviewed the application and gave express permission.

Dated: _____

6 June 2006



Charles Marlio
Flamel Technologies

33 avenue du Dr. Georges Levy
69693 Venissieux Cedex
France
Phone: +33 (0) 472 783 434
Fax: +33 (0) 472 783 435



Vénissieux, le 30 août 2005

FLAMEL TECHNOLOGIES

Parc Club du Moulin à Vent - 33, Avenue du Docteur Georges Lévy - 69693 VÉNISSIEUX CEDEX (France)
☎ 33 (0) 472 78 34 34 - Fax 33 (0) 472 78 34 35

de la part de : Sonia Laribi à Gérard Soula

Monsieur Soula,

Nous vous remercions de bien vouloir dater et signer les documents joints (concernant les brevets « Medusa PAA-g-AA » / « Limitation Antibiorésistance » / « Extension C19 peu solubles ») et de nous les retourner dans les plus brefs délais.

Dans cette attente,

Cordialement,

Sonia Laribi

C0091

La cas 75

Usine de Pessac : 11, Avenue Gustave Eiffel - 33608 Pessac Cedex - ☎ 33 (0) 557 26 07 70 - Fax 33 (0) 556 36 58 91

 **COPIE**

LA POSTE 

RA 1036 8560 8FR

TAUX DE RECOMMANDATION R1 ☐ R2 ☐ R3 ☐

CONSERVEZ CE FEUILLET, IL SERA
NÉCESSAIRE EN CAS DE RÉCLAMATION.

LE CAS ÉCHÉANT, VOUS POUVEZ FAIRE
UNE RÉCLAMATION DANS N'IMPORTE QUEL
BUREAU DE POSTE.

Date	Prix	Contre-Remboursement	Nature de l'objet

DESTINATAIRE LETTRE ☒ COL ☐

Gérard S. de
33 rue Mungesser
62-20 Thibaud

Flanel Technologies (L-CFD)
200 rue de la République
33000 Bordeaux MEX



RCS PARIS 356 000 000

PREUVE DE DÉPÔT

LA POSTE 

RA 1036 8560 8FR

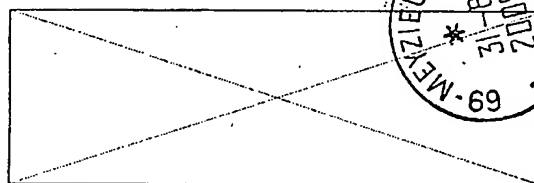
Présenté le :

Distribué le :

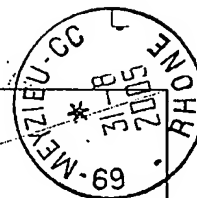
Signature du destinataire :



**AVIS DE RÉCEPTION
DE VOTRE ENVOI
RECOMMANDÉ**



RETOUR À :



RCS PARIS 356 000 000

AR

AVIS DE RÉCEPTION

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I hereby appoint the following attorney and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., CUSTOMER NUMBER 22,852.

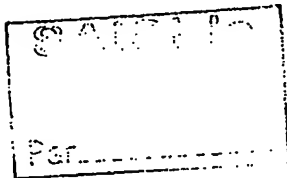
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

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Post Office Address 123 bis cours Albert Thomas 69003 Lyon, France		

Full Name of Second Inventor You-Ping CHAN	Inventor's Signature 	Date 29 August, 2005
Residence Lyon, France		Citizenship France MAURITIUS
Post Office Address 14 boulevard Jean XXIII 69008 Lyon, France		

Full Name of Third Inventor Gérard SOULA	Inventor's Signature	Date
Residence Meyzieu, France		Citizenship France
Post Office Address 33 rue Nungesser 69330 Meyzieu, France		



Customer No.: 22,852
Attorney Docket No.: 09471.0020
Page 1 of 2
JOINT INVENTION
(U.S. Rights Only)

ASSIGNMENT

WHEREAS, We, the below named inventors, (hereinafter referred to as assignors, have made an invention entitled:

POLYAMINO ACIDS FUNCTIONALIZED BY AT LEAST ONE (OLIGO)AMINO ACID GROUP AND THERAPEUTIC USES

for which we executed an application for United States Letters Patent concurrently herewith or on _____ or filed an application for United States Letters Patent on June 3, 2005 (Application No. 10/537,550); and

WHEREAS, **FLAMEL TECHNOLOGIES**, a corporation of France, whose post office address is *33 avenue du Docteur Georges Lévy, 69200 Venissieux, France*, (hereinafter referred to as assignee), is desirous of securing the entire right, title, and interest in and to this invention, the application for United States Letters Patent on this invention and the Letters Patent to be issued upon this application;

NOW THEREFORE, be it known that, for good and valuable consideration the receipt of which from assignee is hereby acknowledged, we, as assignors, have sold, assigned, transferred, and set over, and do hereby sell, assign, transfer, and set over unto the assignee, its lawful successors and assigns, our entire right, title, and interest in and to this invention and this application, and all divisions, and continuations thereof, and all Letters Patent of the United States which may be granted thereon, and all reissues thereof; and we hereby authorize and request the Commissioner of Patents and Trademarks of the United States to issue all Letters Patent for this invention to assignee, its successors and assigns, in accordance with the terms of this Assignment;

AND, WE HEREBY further covenant and agree that we will, without further consideration, communicate with assignee, its successors and assigns, any facts known to us respecting this invention and testify in any legal proceeding, sign all lawful papers when called upon to do so, execute and deliver all papers that may be necessary or desirable to perfect the title to this invention in said assignee, its successors and assigns, execute all divisional, continuation, and reissue applications, make all rightful oaths and generally do everything possible to aid assignee, its successors and assigns, to obtain and enforce proper patent protection for this invention in the United States, it being understood that any expense incident to the execution of such papers shall be borne by the assignee, its successors and assigns.

AND, WE HEREBY authorize and request the attorneys we have empowered in the Declaration and Power of Attorney in this application, to insert here in parentheses (Application No. 10/537,550, filed June 3, 2005) the filing date and application number of said application when known.

IN TESTIMONY WHEREOF, we have hereunto set our hands.

First Assignor

Stéphanie ANGOT
123 bis cours Albert Thomas
69003 Lyon
France

Citizenship: France

Signature: _____

Date: _____

Second Assignor

You-Ping CHAN
14 boulevard Jean XXIII
69008 Lyon
France

Citizenship: France *MAURITIUS*

Signature: _____

Date: *29 August, 2005*

Third Assignor

Gérard SOULA
33 rue Nungesser
69330 Meyzieu
France

Citizenship: France

Signature: _____

Date: _____



FLAMEL TECHNOLOGIES

Parc Club du Moulin à Vent
33, Avenue du Docteur Georges Lévy
69693 VÉNISSIEUX CEDEX (France)
☎ 33 (0) 472 78 34 34
Fax 33 (0) 472 78 34 35

Vénissieux, le 8 septembre 2005

M. Gérard Soula
33 rue Nungesser
69330 MEYZIEU

LETTRE RECOMMANDE AVEC AR

Nos réf. : L05-225 RM /sl

OBJET : Brevets

Monsieur Soula,

Nous vous remercions de bien vouloir dater et signer les documents qui suivent concernant les demandes de brevet :

- « MESUSAGE V » : pouvoir, Cas 110 - PCT
- « MICROPUMP RIBAVIRINE » : pouvoir, Cas 109. WO
- « PAA-G-LYSINE HYDROPHOBISE » : cession et déclaration, Cas 76 - US.
- « MEDUSA PLA/GLU » : cession, Cas 72 - Canada

et de nous les retourner au plus vite (enveloppe pré timbrée ci-jointe).

De plus, nous vous saurions gré de bien vouloir nous retourner, très rapidement, les demandes de brevets suivantes approuvées par vos soins :

- « MEDUSA PLA/GLU » : cession envoyée le 25/08/05, Cas 72 - US
- « MEDUSA PAA-G-AA » : cession et déclaration envoyées le 30/08/05, 79 US
- « LIMITATION ANTIBIORESISTANCE » : cession et pouvoir envoyés le 30/08/05, 91 TH / 91 WO
- « EXTENSION C19 PEU SOLUBLES » : cession et déclaration envoyées le 30/08/05. 75 - US

Dans cette attente,

Nous vous prions d'agréer, Monsieur Soula, nos sincères salutations.

Sonia Laribi

P.J. : 5

LA POSTE 

RA 3690 3368 1FR

PREUVE DE DÉPÔT
D'UN OBJET RECOMMANDÉ
AVEC AVIS DE RÉCEPTION

TAUX DE RECOMMANDATION R1 ☐ R2 ☐ R3 ☐

CONSERVEZ CE FEUILLET, IL SERA
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LE CAS ÉCHÉANT, VOUS POUVEZ FAIRE
UNE RÉCLAMATION DANS N'IMPORTE QUEL
BUREAU DE POSTE.

DESTINATAIRE

LETTRE ☒

COLIS ☐

G. Soule
33 rue Nungesser
69330 MEYZIEU

Flamel Technologies (SL)
Parc du Moulin à Vent
33 av. de Br. G. 2014
69695 Vaulx-en-Velin F

Date	Prix	Contre-Remboursement	Nature de l'objet
05/09/05			



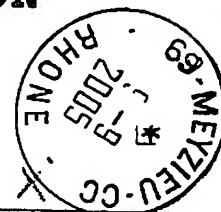
RCS PARIS 359 000 000

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RA 3690 3368 1FR

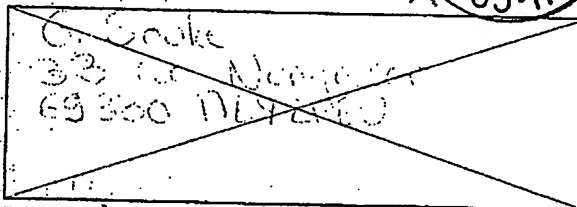
AVIS DE RÉCEPTION
DE VOTRE ENVOI
RECOMMANDÉ



Présenté le :

Distribué le :

Signature du destinataire:



RETOUR À :

Flamel Technologies (SL)
Parc du Moulin à Vent
33 av. de Br. G. 2014
69695 Vaulx-en-Velin F

RCS PARIS 359 000 000

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AVIS DE RÉCEPTION

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I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) or § 365(c) of any PCT International application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application(s) and the national or PCT International filing date of this application:

Application Number	Date of Filing	Status (Patented, Pending, Abandoned)

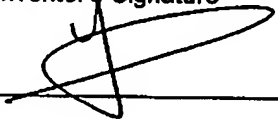
I hereby appoint the following attorney and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., CUSTOMER NUMBER 22,852.

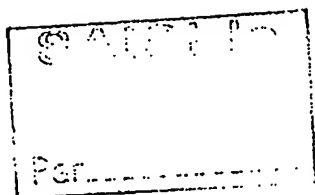
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

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Full Name of Second Inventor You-Ping CHAN	Inventor's Signature 	Date 29 August, 2005
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Full Name of Third Inventor Gérard SOULA	Inventor's Signature	Date
Residence Meyzieu, France	Citizenship France	
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Customer No.: 22,852
Attorney Docket No.: 09471.0020
Page 1 of 2
JOINT INVENTION
(U.S. Rights Only)

ASSIGNMENT

WHEREAS, We, the below named inventors, (hereinafter referred to as assignors, have made an invention entitled:

POLYAMINO ACIDS FUNCTIONALIZED BY AT LEAST ONE (OLIGO)AMINO ACID GROUP AND THERAPEUTIC USES

for which we executed an application for United States Letters Patent concurrently herewith or on _____ or filed an application for United States Letters Patent on June 3, 2005 (Application No. 10/537,550); and

WHEREAS, **FLAMEL TECHNOLOGIES**, a corporation of France, whose post office address is *33 avenue du Docteur Georges Lévy, 69200 Venissieux, France*, (hereinafter referred to as assignee), is desirous of securing the entire right, title, and interest in and to this invention, the application for United States Letters Patent on this invention and the Letters Patent to be issued upon this application;

NOW THEREFORE, be it known that, for good and valuable consideration the receipt of which from assignee is hereby acknowledged, we, as assignors, have sold, assigned, transferred, and set over, and do hereby sell, assign, transfer, and set over unto the assignee, its lawful successors and assigns, our entire right, title, and interest in and to this invention and this application, and all divisions, and continuations thereof, and all Letters Patent of the United States which may be granted thereon, and all reissues thereof; and we hereby authorize and request the Commissioner of Patents and Trademarks of the United States to issue all Letters Patent for this invention to assignee, its successors and assigns, in accordance with the terms of this Assignment;

AND, WE HEREBY further covenant and agree that we will, without further consideration, communicate with assignee, its successors and assigns, any facts known to us respecting this invention and testify in any legal proceeding, sign all lawful papers when called upon to do so, execute and deliver all papers that may be necessary or desirable to perfect the title to this invention in said assignee, its successors and assigns, execute all divisional, continuation, and reissue applications, make all rightful oaths and generally do everything possible to aid assignee, its successors and assigns, to obtain and enforce proper patent protection for this invention in the United States, it being understood that any expense incident to the execution of such papers shall be borne by the assignee, its successors and assigns.

AND, WE HEREBY authorize and request the attorneys we have empowered in the Declaration and Power of Attorney in this application, to insert here in parentheses (Application No. 10/537,550, filed June 3, 2005) the filing date and application number of said application when known.

IN TESTIMONY WHEREOF, we have hereunto set our hands.

First Assignor

Stéphanie ANGOT
123 bis cours Albert Thomas
69003 Lyon
France

Citizenship: France

Signature: _____

Date: _____

Second Assignor

You-Ping CHAN
14 boulevard Jean XXIII
69008 Lyon
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Citizenship: France MAURITIUS

Signature: _____

Date: 29 August, 2005

Third Assignor

Gérard SOULA
33 rue Nungesser
69330 Meyzieu
France

Citizenship: France

Signature: _____

Date: _____